

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Staff's Investigation of)
Matters Concerning the Rush Island)
Energy Center belonging to Union)
Electric Company, doing business as)
Ameren Missouri.)

Case No. EO-2022-0215

STAFF'S INITIAL INVESTIGATION REPORT

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and hereby submits its *Initial Investigation Report*, accompanying this pleading.

I. INTRODUCTION

A. *The Nature of the Case*

1. This case concerns Ameren Missouri's Rush Island Generating Station, the third-largest energy center operated by Ameren Missouri, located in Jefferson County, Missouri, near Festus, Missouri. In December 2021, it was reported that Ameren Missouri had announced its intention to close the Rush Island Facility some 15 years earlier than planned because of an adverse result in ongoing federal Clean Air Act ("CAA") litigation, *Sierra Club v. Ameren Missouri*. In particular, it was reported that Ameren Missouri had failed to acquire certain federal permits and otherwise to comply with the CAA.

B. *Procedural History*

2. On February 14, 2022, Staff by motion requested that an investigation be opened into the prudence of Ameren Missouri's decisions and actions, as well as the effect that early retirement of Rush Island may have on the reliability and adequacy of Ameren Missouri's service to its Missouri ratepayers. Staff advised the Commission that, based upon the results of this investigation, Staff may file complaints or take other actions to safeguard the public welfare.

3. On February 15, 2022, the Commission granted Staff's motion and opened this investigatory docket, stating:

The Commission is concerned about potential impacts on the reliability and adequacy of Ameren Missouri's service to its ratepayers, including possible power outages, service disruptions, and excessive costs that could result from an accelerated retirement of Rush Island. Retirement of a generating plant providing power to the transmission grid must be planned appropriately to ensure that continued safe and reliable service is provided to captive customers, and the appropriate timing of a retirement must be evaluated to avoid service disruptions. Ameren Missouri's current Integrated Resource Plan (IRP) assumes that Rush Island will be operated for another fifteen years. Ameren Missouri is scheduled to update its preferred resource plan by July 15, 2022, to account for the closing of Rush Island, but that evaluation is not yet complete and has not been reviewed by the Commission.¹

4. The Commission directed Staff to file an *Initial Investigation Report* not later than April 15, 2022; and also directed Ameren Missouri to file periodic reports on the status of proceedings at the federal court, as well as the status of its planning for the retirement of Rush Island; such reports to be filed by the fifteenth day of each month, beginning on March 15, 2022. Ameren Missouri filed its first status report as directed on March 15, 2022.²

C. The Parties

5. Staff is the Staff of the Missouri Public Service Commission, acting through the Staff Counsel as authorized by Commission Rule 4 CSR 240-2.070(1).

6. Union Electric Company, d/b/a Ameren Missouri, is a wholly-owned subsidiary of Ameren Corporation, a publicly-traded utility holding company. Pursuant to

¹ *In the Matter of Staff's Investigation of Matters Concerning the Rush Island Energy Center Belonging to Union Electric Company d/b/a Ameren Missouri*, Case No. EO-2022-0215 (*Order Opening an Investigation*, issued February 15, 2022) p. 2.

² *Id.*, p. 3.

the Missouri Secretary of State's website, Ameren Missouri's principal place of business is One Ameren Plaza, 1901 Chouteau, St. Louis, Missouri 63103. Ameren Missouri's registered agent is Steven R. Brophy, 500 East Independence Drive, Union, Missouri 63084.

D. Jurisdiction

7. Ameren Missouri is in the business of generating, transmitting and distributing electricity to customers for light, heat and power, and is thus an "electric corporation" and a "public utility" as defined in § 386.020, (15) and (43), RSMo., subject to the regulatory jurisdiction of this Commission under chapters 386 and 393, RSMo.

8. The Commission has jurisdiction over the subject matter of this investigation because it involves Ameren Missouri's obligations under statutes administered by the Commission, in particular, its obligation to provide safe and adequate service at just and reasonable rates to all persons and entities requesting such service within its Commission-authorized service area. Sections 386.250(1); 393.130.1, RSMo.

9. Section 386.390.1, RSMo, authorizes the Commission to hear and determine complaints:

Complaint may be made by the commission of its own motion, or by the public counsel or any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission

10. The Commission has by Rule 4 CSR 240-2.070(1) authorized the Staff Counsel to bring complaints on the behalf of the Staff: “A complaint may also be filed by ... the commission staff through the staff counsel”

11. The authority to bring complaints necessarily extends to and encompasses the authority to pursue investigations. Section 393.140, RSMo.

II. SCOPE OF THE INVESTIGATION

12. The Commission noted in its Order establishing this docket that Staff proposed to investigate the impact of the retirement of Rush Island, including potential impacts on the reliability and adequacy of Ameren Missouri’s service to its ratepayers; Ameren Missouri’s plans to mitigate the effects of that retirement; and the prudence of Ameren Missouri’s actions and decisions with respect to Rush Island. Staff also proposed to undertake an accounting of all expenses incurred by Ameren Missouri’s ratepayers, or likely to be incurred by ratepayers, due to any imprudence by Ameren Missouri.

III. METHODOLOGY

13. Staff gathered information for this investigation via Data Requests directed to Ameren Missouri, as well as by reviewing Ameren Missouri’s *Status Report(s)* and relevant information already in Staff’s possession, such as Integrated Resource Plans, and the like, as well as information available to Staff from other sources, and subjected that information to expert review and analysis.

IV. INITIAL FINDINGS AND CONCLUSIONS

A. Ameren Missouri’s Status Reports

14. Ameren Missouri filed its first *Status Report* on March 15, 2022, and reported:

- a. **Court proceedings:** At a hearing on February 7, 2022, the Court directed the parties to confer regarding the form of Ameren Missouri's Attachment Y submission to be made to the Midcontinent Independent System Operator ("MISO") related to the retirement of Rush Island. The parties agreed on the form of that submission and Ameren Missouri provided its Attachment Y submission to MISO on February 28, 2022. Ameren Missouri is waiting for a modified order from the Court setting Rush Island's new retirement date and indicating how the plant will operate until that date.³
- b. **MISO:** The system operator, the Midcontinent Independent System Operator, Inc. ("MISO"), has an established process for reviewing and approving the early retirement of a generating source, which includes assessment of reliability impacts. MISO is now undertaking its Attachment Y analysis of any transmission reliability issues related to Rush Island's retirement.⁴
- c. **Ameren Missouri Transmission Planning:** As the MISO Attachment Y analysis proceeds, Ameren Missouri has started pre-engineering work based on the MISO Y2 results.⁵
- d. **Ameren Missouri Operational Planning:** Ameren Missouri is in the early stages of developing plans addressing multiple operational issues

³ *In the Matter of Staff's Investigation of Matters Concerning the Rush Island Energy Center Belonging to Union Electric Company d/b/a Ameren Missouri*, Case No. EO-2022-0215 (*Ameren Missouri Monthly Report*, filed March 15, 2022) p. 1.

⁴ *Id.*

⁵ *Id.*, pp. 1-2.

concerning the transition and retirement of the plant, based upon the shutdown plans developed for the Meramec Energy Center. These plans cannot be finalized until the new Rush Island retirement date is known.⁶

B. Staff's Initial Findings and Conclusions

15. A public utility is required to provide safe and adequate service to its ratepayers at just and reasonable rates. Section 393.130.1, RSMo. Rates that include imprudently-incurred expenses are not just and reasonable. See ***State ex rel. Ass'd Nat. Gas Co. v. Pub. Serv. Com'n of State of Mo.***, 954 S.W.2d 520, 530 (Mo. App., W.D. 1997).

16. **Impact:** Based on its review and analysis of available information, Staff finds that the early retirement of Rush Island may cause ratepayers in the St. Louis area to lose power in certain circumstances. Therefore, Staff concludes that Ameren Missouri's provision of safe and adequate service to its ratepayers is in jeopardy. This matter is discussed in detail in Staff's attached confidential *Initial Investigation Report*.

17. **Mitigation:** Ameren Missouri's planned mitigation measures may be inadequate and may not be in place in time. Therefore, Staff concludes that Ameren Missouri's provision of safe and adequate service to its ratepayers is in jeopardy. This matter is discussed in detail in Staff's attached confidential *Initial Investigation Report*.

18. **Prudence:** Staff has not yet addressed this issue.

19. **Financial Impacts on Ratepayers:** These are not yet known.

⁶ *Id.*, p. 2.

V. NEXT STEPS AND RECOMMENDATIONS

20. Staff will continue to gather and analyze relevant information.

21. Staff continues to recommend Ameren Missouri update its existing tariffs, including its Emergency Energy Conservation Procedure, to cover curtailment situations other than fossil fuel shortages and Missouri Energy Efficiency and Investment Act (“MEEIA”) programs. Staff recommends that Ameren Missouri begin developing specific plans to minimize risk to the St. Louis Metro area. Further, Staff recommends that Ameren Missouri examine its existing Missouri Energy Efficiency and Investment Act (“MEEIA”) Demand Response (“DR”) and load management programs, including, but not limited to controllable thermostats.

22. Staff recommends that the Commission direct Ameren Missouri to file a memorandum, supported by affidavits and other exhibits as necessary, showing how its decisions resulting in the present circumstance were prudent.

WHEREFORE, Staff prays that the Commission will accept its *Initial Investigation Report*; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson

KEVIN A. THOMPSON

Missouri Bar Number 36288

Chief Staff Counsel

Missouri Public Service Commission

P.O. Box 360

Jefferson City, MO 65102

573-751-6514 (Voice)

573-526-6969 (Fax)

kevin.thompson@psc.mo.gov

Attorney for Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served, by hand delivery, electronic mail, or First Class United States Mail, postage prepaid, to all parties herein pursuant to the Service List maintained by the Commission's Data Center on this **15th day of April, 2022.**

/s/ Kevin A. Thompson